IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8090 of 1991

with

SPECIAL CIVIL APPLICATION No 4017 of 1988

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE Y.B.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MENTUBHAI GOTUBHAI VASAVA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 8090 of 1991
   MR SHAILESH C PARIKH for Petitioners
   MR AY KOGJE, AGP, for Respondents No. 1-2
   MR HM BHAGAT for Respondent No. 3
2. Special Civil Application No. 4017 of 1988
   MR GIRISH PATEL for Petitioner
   MR HM BHAGAT for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE Y.B.BHATT

Date of decision: 04/12/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

1. In both these petitions common questions are involved. Therefore, upon request they are being disposed of by this common judgement.

2. There is a consensus that such and similar various petitions earlier have been considered, determined and disposed of by this Court by issuing certain directions to the respondent authorities with a view to decide the question of regularisation of the encroachment by the petitioners in terms of the Government Resolution. Copies of such orders rendered in SCA No.8089/91 and 8087/91 have been placed on record. We have also examined those orders of this Court. It is, therefore, jointly submitted that the present two petitions are also required to be disposed of accordingly as they are covered by earlier said decisions.

3. Accordingly, on the facts and circumstances of the case, the following directions are given:

[A] The petitioners are directed to apply for regularisation to the appropriate authority within a period of one month from today.

[B] The appropriate authority is directed to consider and decide such representations of the petitioners in accordance with the Government Resolution dated 5th October 1992 and other connected Resolutions, within a period of 90 days from the date of receipt of the representations.

[C] In both these petitions the ad interim relief, in so far as status quo is concerned, was granted and therefore the same protection shall continue till the disposal of the representations by the concerned authority.

[D] It is observed in the earlier orders that various Non-Governmental Organisations working in the field had made representations to the Government whereby suggestions were made for improvement and

amendment so that the authorities could consider the claim for regularisation not only on the restricted two aspects mentioned in the Government Resolution hereinabove, but also on such suggestions made by NGOs. Such suggestions had been made because of the difficulties and problems generated on account of implementation of the Resolutions of the Government with regard to the proof of cultivation by the tribals. In the earlier matters two such representations made by the NGOs (Eklavya and ARCH Vahini) were produced on record. It is in this context there was a consensus that a similar direction as this Court had given in earlier judgement may also be given. Therefore, it is further directed that the respondent authorities shall also consider such representations and suggestions in consultation with such voluntary organisations before deciding the representations.

4. Both these petitions are accordingly disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

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